

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Official Action dated October 5, 2005. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

Status of the Claims

Claims 1-26 are under consideration in this application.

Allowable Subject Matter

Claims 1-24 remain allowed as indicated in the prior Notice of Allowance.

Prior Art Rejection

Claims 25-26 were rejected under 35 U.S.C. § 102(e) as being anticipated by US 6,909,385 to Vasic (hereinafter "Vasic"). This rejection has been carefully considered, but is most respectfully traversed.

Applicants hereby contend that Vasic is disqualified as prior art since the U.S. filing date of Vasic, February 27, 2002 and its provisional filing date, July 9, 2001, were "later" than (not "before") the earliest effective filing date (Japanese priority date) of the application, namely October 23, 2000. Under the Hilmer I doctrine (MPEP. 2136.03), Applicants' JP priority date may be used to predate the Vasic US filing date, even if Vasic's JP priority date predated the application:

A U.S. patent reference is effective prior art as of its U.S. filing date. 35 U.S.C. 119(a)-(d) and (f) does not modify section 102(e) which is explicitly limited to certain references "filed in the United States before the invention thereof by the applicant" (emphasis added). Therefore, the foreign priority date of the reference under 35 U.S.C. 119(a)-(d) and (f) cannot be used to antedate the application filing date. In contrast, applicant may be able to overcome the 35 U.S.C. 102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. 119 priority date which is earlier than the reference's U.S. filing date. In re Hilmer, 359 F.2d 859, 149 USPQ 480 (CCPA 1966) (Hilmer I) (Applicant filed an application with a right of priority to a German application. The examiner rejected the claims over a U.S. patent to Habicht based on its Swiss priority date. The U.S. filing date of Habicht was later than the application's German priority date. The court held that the reference's Swiss priority date could not be relied on in a 35 U.S.C. 102(e) rejection. MPEP. 2136.03.

A copy of the English translation of the JP priority document of the present application is enclosed herewith to prove that the patentable features were in Applicants' possession since October 23, 2000. In particular, claims 25-26 are described in paragraph [0025] of the translation which corresponds to page 14, line 17 to page 15, line 2 of the specification.

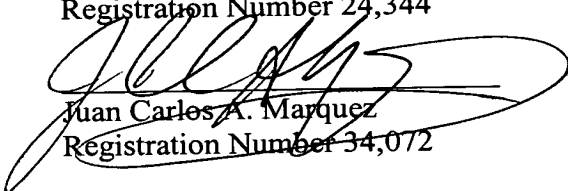
Conclusion

In view of all the above, clear and distinct differences as discussed exist between the present invention and the prior art references upon which the rejections in the Office Action rely, Applicant respectfully contends that the prior art references cannot anticipate the present invention or render the present invention obvious. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicant's undersigned representative at the address and phone number indicated below.

Respectfully submitted,

Stanley P. Fisher
Registration Number 24,344



Juan Carlos A. Marquez
Registration Number 34,072

REED SMITH LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, Virginia 22042
(703) 641-4200

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SPF/JCM/JT